

REMARKS

Claims 1, 5, 11, 35 and 58 have been amended. No claims have been added or deleted. With entry of this amendment, claims 1, 5-35, 42-50, 52, 58, 59 and 64-67 will be pending.

Claim 11 was objected to because of an informality. Appropriate amendment has been made.

Claims 13-34 and 64-67 have been deemed allowable. The Applicant wishes to thank the Examiner for the allowance of these claims.

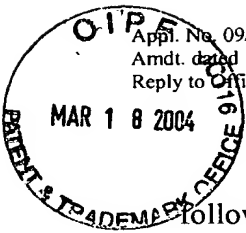
Claims 1, 5-12, 35, 42-50, 52 and 58-59 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner and the undersigned very briefly discussed the 112 rejections on 26 February 2004, but did not reach an agreement. In any event, the Applicant respectfully traverses this rejection for the reasons set forth below.

Support for claim 1 can be found, among other places, on page 41, lines 13 to 21, herein referred to as paragraph P, which reads as follows:

The present invention includes any method of analyzing biological tissue comprising illuminating the tissue with light, spectrally measuring and analyzing the differences between the incident and remitted light, the analysis of this data to define a parameter of the tissue, the normalization of the data to a standard value of that parameter using a predictive mathematical model of the optical properties of the biological tissue, and the subsequent measurement of a further parameter from that normalized data, preferably with more than one sequential normalization and analysis step to define further parameters.

Line 3 of claim 1 recites "illuminating an area of such tissue sample by projecting light from a light source." One of skill in the art would understand that this step comprises 'illuminating the tissue with light' as in line 2 of Paragraph P.

Line 4 of claim 1 recites "receiving light remitted by the illuminated area of tissue at a photo-receptor." One of skill in the art would understand that in order to spectrally measure and analyze the differences between the incident and remitted light, the light remitted would be received at a photo-receptor. Similarly, in relation to line 5 of claim 1, one of skill in the art would understand that the remitted light would be spectroscopically analyzed to allow a comparison between incident and remitted light as determined in paragraph P.



App. No. 09/760,387
Amdt. dated March 13, 2004
Reply to Office action of January 13, 2004

Lines 6 to 11 of claim 1 find support in the disclosure of paragraph P and closely follow the language of that paragraph.

Lines 12 to the end are amended to be consistent with the language of the amended claim and are supported throughout the description and notably in old claim 1 by the disclosed method step of comparing data generated from analysis with a sample of tissue of known structure.

Consequently, independent claim 1 and its dependent claims are allowable.

Independent claims 5, 35 and 58 have amended in a manner similar to claim 1 to closely follow the language of claim 1. Support for the amendments to these claims can be found, among other places, in paragraph P for the same and similar reasons as set forth above. Consequently, independent claims 5, 35 and 58 and their dependent claims are allowable.

Withdrawal of the 112 rejection of claims 1, 5-12, 35, 42-50, 52 and 58-59 is respectfully requested.

In view of the foregoing, reconsideration and allowance of the application are respectfully requested. Should any issues remain that preclude the allowance of the application, the Examiner is strongly encouraged to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Gregory J. Hartwig
Reg. No. 46,761

Docket No.: 14469-9006-00
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108

(414) 271-6560

RECEIVED

MAR 22 2004

TECHNOLOGY CENTER R3700